

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MICHAEL SABELLA,

Plaintiff,

v.

Civil Action No.
06 – CV – 6566 (NG)(SMG)

**AMERICAN STEVEDORING, INC., and
LOCAL 1814 INTERNATIONAL
LONGSHOREMAN’S ASSOCIATION, AFL-CIO,**

Defendants.
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**DEFENDANT LOCAL 1814’s
FIRST SUPPLEMENTAL REQUEST TO CHARGE**

Pursuant to the discussion held on the record on Friday November 14, 2014, Local 1814 hereby submits its first supplemental request to charge:

Unavailability for work due to disability

ASI and Local 1814 are not liable for back pay during any periods that Sabella was unavailable for work due to a disability, except where Sabella has shown that defendants’ misconduct caused his disability.

Source: *Saulpaugh v. Monroe Cmty. Hosp.*, 4 F.3d 134, 145 (2d Cir. 1993); *Canova v. NLRB*, 708 F.2d 1498, 1505 (9th Cir. 1983); *Lathem v. Department of Children & Youth Servs.*, 172

F.3d 786, 794 (11th Cir. 1999); *Starceski v. Westinghouse Elec. Corp.*, 54 F.3d 1089, 1101 (3d Cir. 1995).

Unavailability or failure to report to work

ASI and Local 1814 are not liable for back pay for any days that Sabella failed to make himself available for work through the Port hiring system or for any days he refused a job or failed to show up for a job.

Source: *United States v. Wood, Wire & Metal Lathers International Union*, 328 F. Supp. 429, 443 (S.D.N.Y.1971)

Dated: New York, New York
November 16, 2014

MARRINAN & MAZZOLA MARDON, P.C.

By: /s/John P. Sheridan
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*Attorneys for Defendant
Local 1814, International
Longshoremen's Association, AFL-CIO*

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2014 the foregoing was served via ECF upon the all counsel of record:

/s/ John P. Sheridan
John P. Sheridan